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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,780	10/16/2000	Gerald R. Koefelda	RPC0456PUS	1559

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EXAMINER
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MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/688,780	KOEFELDA ET AL.
	Examiner Steven M Marsh	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address.  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 06 May 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-8,12-19 and 21-47 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 12-18,22-27,30-35 and 47 is/are allowed.

6) Claim(s) 1-7,19,21,28,29,37-43 and 46 is/are rejected.

7) Claim(s) 8,36, and 44-46 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

This is the third office action for U.S. Application 09/688,780 for a Shipping Pod filed by Gerald R. Koefelda on October 16, 2000. Claims 9-11 and 20 have been canceled.

***Allowable Subject Matter***

Claims 12-18, 22-27, 30-35, and 47 are allowed. The following is an examiner's statement of reasons for allowance in claims 30-35 and 47: The prior art does not disclose a shipping pod with a top wall with an opening through which an attachment member extends; a perimeter wall with interior and exterior surfaces, extending downwardly from the top wall; an outer perimeter wall with an uppermost portion below a plane defined by an upper surface of the top wall and spaced outwardly away from the exterior surface of the perimeter wall; and whereby the interior surface of the pod nests proximate to an exterior surface of a second shipping pod in a stacked configuration.

Claims 8, 36, and 44-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter in claims 36, 44, and 45: The prior art does not disclose a shipping pod with a top wall with an opening through which an attachment member extends; a perimeter wall with interior and exterior surfaces, extending downwardly from the top wall; an outer perimeter wall with an uppermost portion below a plane defined by an upper surface of the top wall and spaced outwardly

away from the exterior surface of the perimeter wall; and whereby the interior surface of the pod nests proximate to an exterior surface of a second shipping pod in a stacked configuration. Claim 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 46 recites the limitation "the outer perimeter wall" in lines 1 and 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, it is being assumed that Applicant intended to make the claim dependent upon claim 44, rather than claim 42.

***Claim Rejections - 35 USC § 102***

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,893,665 to Paulsen. Paulsen discloses a shipping pod that could support a large object that has a planar top wall (7) for mating to the bottom surface of the large object. The top wall has a single opening through which a threaded member can be extended for attaching the shipping pod to the large object, whereby the opening is completely surrounded by the top wall. There is a substantially rigid perimeter wall (8) that extends downwardly and outwardly from the top wall. The perimeter wall has an exterior surface facing away from the top wall and an interior surface facing inward and the interior surface of the shipping pod would nest proximate to the exterior surface of a second subjacent shipping pod when in a stacked orientation.

The exterior and interior wall surfaces result in the sidewall member form an inner and outer wall member that are spaced from each other (by the thickness of the member 8). The top wall and the perimeter wall, which extends down from it, would extend beyond the outside perimeter of the large object, and act together to form a compartment there between, wherein the compartment could receive the upper wall of a second shipping pod. The pod has a bottom wall (6) that extends outwardly from a lower periphery of the perimeter wall and is substantially parallel to the top wall.

***Claim Rejections - 35 USC § 103***

Claims 1, 5, 28, 29, 37-40, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulsen in view of U.S. Patent 1,926,392 to Kritzer. Paulsen

does not disclose a top wall with an elongate opening that allows the attachment member to be movable laterally within the opening. Kritzer discloses a device (20 on each side) for mounting a large object. There is a top wall with at least one elongated opening (32) that it surrounds and through which an attachment member (28 and 30) is extended for attaching the large object and device and sidewalls extending downward from the top wall. The attachment member is movable laterally within the opening to provide selective positioning of the object and device. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided an elongate opening as taught by Kritzer, to receive the attachment member taught by Paulsen, for the purpose of providing a means to position the object at different locations relative to the pod.

Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paulsen in view of Kritzer, in further view of Nishitani et al. Paulsen in view of Kritzer does not disclose a shipping pod with an anti-slip member for contacting the bottom surface of a large object. Nor does Paulsen in view of Kritzer disclose an undersurface with a plurality of ribs. Nishitani et al. discloses the use of grommets as a "common anti-slip measure". (see figures 20-25). Nishitani et al. also discloses a platform with an undersurface having a plurality of ribs (5). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided an anti-slip means such as grommets in the openings taught by Paulsen in view of Kritzer, as taught by Nishitani et al. It would also have been obvious to place ribs underneath

the top wall taught by Paulsen, as taught by Nishitani et al., for the purpose of providing reinforcement for the top wall.

Claim 7 is rejected under 35 U.S.C 103(a) as being unpatentable over Paulsen in view of Kritzer. The pod taught by Paulsen in view of Kritzer does not have a rectangular shape, but that is a matter of design preference (as noted by Applicant on page 10, line 20) and would have been obvious to one of ordinary skill in the art at the time of the present invention.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paulsen in view of Nishitani et al. Paulsen does not disclose a shipping pod with an anti-slip member for contacting the bottom surface of a large object. Nishitani et al. discloses the use of grommets as a “common anti-slip measure”. (see figures 20-25). It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided an anti-slip means such as grommets in the openings taught by Paulsen, as taught by Nishitani et al, to prevent slippage.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paulsen in view of U.S. Patent 5,878,984 to Grieser et al. Paulsen does not disclose a plurality of ribs extending outwardly from the exterior surface of the perimeter wall and connecting to the bottom wall that extends outwardly from it. Grieser et al. discloses a foot for supporting a large object (12) with an opening (46) for receiving an attachment member (48) extending from the object. The foot has a perimeter wall (52, 54, 56, 58) and a bottom wall (24), with a plurality of ribs (34 and 36) extending outwardly from the exterior surface of the perimeter wall and connecting to the bottom wall for

strengthening the connection. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided a plurality of ribs between the perimeter wall and bottom wall taught by Paulsen, as taught by Grieser et al., for the purpose of strengthening the connection between the walls.

### ***Response to Arguments***

Applicant's arguments, see paper 8, filed May 6, 2003, with respect to the rejection(s) of claim(s) 1, 5, 28, and 29 under Paulsen in view of Carlson have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Paulsen in view of Kritzer. Applicant's arguments with respect to claims 2-4, 6, and 21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed May 6, 2003 with respect to claim 19 have been fully considered but they are not persuasive. In response to applicant's argument that Paulsen does not disclose two walls, Applicant claims an inner wall and an outer wall spaced from each other. The structure taught by Paulsen has both an inner wall (the inner portion of 8) and an outer wall (the outer portion of 8) and they are spaced apart by the thickness of the portion 8.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is

(703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven M. Marsh

July 24, 2003



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER